

Supplemental Amendment to Official Action of 8 October 2003 SN: 10/047,362 Filed: 14 January 2002
Inventor: R. A. Lindner Examiner: Mulcahy, Peter D. TC A/U: 1713
Title: Products Docket: 1021-01

REMARKS

Any arguments made herein are only to be directed to the claims to which the argument is directed. No estoppel is intended or should be taken to any other claims to which the arguments herein are not specifically directed.

Claims 1 through 3 inclusive, claim 6, claim 10, claims 12 through 17 inclusive are pending in this application. Claim 4, claim 5, claims 7 through 9 and claim 11 have been canceled.

A Declaration under 37 C.F.R. 132 is included in this response to aid the Examiner in determining that the claims in this application are entitled to patentability.

ARGUMENTS

The invention relates to rigid polyvinylchloride articles such as siding. The claims do not relate to articles such as flexible polyvinylchloride including marking tapes. The claimed polyvinylchloride articles must achieve certain testing standards as set out below. None of the claimed parameters are met or suggested by the cited patents.

The references applied by the Examiner are Hiyama et al., United States patent 3,793,274 issued 19 February 1974 (hereinafter the Hiyama et al., patent); Yoshida, et al., United States patent 4,670,490 issued June 2, 1987 (hereinafter the Yoshida, et al., patent); Brecker, et al., United States patent 4,447,569 issued 8 May 1984 (hereinafter the Brecker, et al., patent); the Anderson et al., United States patent 3,905,927 issued 16 September 1975 (hereinafter the Anderson et al., patent); and Lamb United States patent 4,133,794 issued 9 January 1979 (hereinafter the Lamb patent).

Discussion of the 35 U.S.C. 102 Rejections

The first rejection is to claims 1 through 15 inclusive as anticipated by the Hiyama et al., patent. The Examiner cites certain polymeric fatty acids per column 2, lines 28 through 56 inclusive of the Hiyama et al., patent. Independent claims 1 and 17 now recite component C as oxidized polyethylene. Thus, the novelty rejection based on the Hiyama et al., patent should be removed and such is requested.

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Discussion of the 35 U.S.C. 103 Rejections

The Examiner has rejected claims 1 through 15 inclusive as being obvious from the Hiyama et al., patent. The applicant's independent claims 1 and 17 require component C be oxidized polyethylene and that the polyvinylchloride article have as performance properties a gloss % reflectance @ 60° of less than 65 and withstands a falling dart impact of greater than 247.1 ft-lb/inch. The performance properties are important to obtaining a rigid polyvinylchloride article that is used as siding. The gloss % reflectance @ 60° of less than 65 permits the polyvinylchloride to be utilized as siding without painting. The falling dart impact of greater than 247.1 ft-lb/inch is important in preventing cracks or penetration of polyvinylchloride siding. The Delta E at 15,000 hours of less than 6.6 is important to ensure that the polyvinylchloride siding is stable under weathering conditions.

The Hiyama et al., patent does not teach component C as oxidized polyethylene nor provide any reason to modify the teachings therein to utilize oxidized polyethylene. The Hiyama et al., patent does not teach any use of the polyvinylchloride in making a rigid polyvinylchloride article and never mentions any of the performance properties. Thus, all of the pending claims cannot not be obvious from the Hiyama et al., patent and the rejection should be removed.

The Examiner next rejects claims 1 through 15 inclusive as being obvious over the Yoshida, et al., patent. The Yoshida, et al., patent never suggests the use of oxidized polyethylene or any reason to modify any material taught therein to obtain the composition of the claimed rigid polyvinylchloride article. There is no teaching of obtaining the performance properties recited in the pending independent claims 1 and 17 in the Yoshida, et al., patent. Nor would one skilled in the art ever start with the Yoshida, et al., patent in the manufacture of a rigid polyvinylchloride article as the teachings of the Yoshida, et al., patent relate to marking films that by their nature must be too flexible to be within the scope of the pending independent claims 1 and 17.

The Examiner has rejected claims 1 through 15 inclusive as being obvious over the Brecker, et al., patent citing column 4 line 47 through column 5, line 33. The

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Brecker, et al., patent never suggests the use of oxidized polyethylene or any reason to utilize oxidized polyethylene to obtain a rigid polyvinylchloride article having the recited performance properties. In fact, the Brecker, et al., patent relates to plasticized composition used to clad electrical wire. (the Brecker, et al., patent column 8, lines 32 through 37).

The Examiner next rejects claims 1 through 15 inclusive as being obvious over the Anderson et al., patent (the Anderson et al., patent column 2, lines 11 through 29 and column 2, line 56 through column 3, line 10). The Anderson et al., patent never suggests the use of oxidized polyethylene or any reason to utilize oxidized polyethylene to obtain a rigid polyvinylchloride article having the recited performance properties.

The Examiner next rejects claims 1 through 15 inclusive as being obvious over the Lamb patent (the Lamb patent column 2, line 3 through column 3, line 10). The Lamb patent never suggests the use of oxidized polyethylene or any reason to utilize oxidized polyethylene to obtain a rigid polyvinylchloride article having the recited performance properties.

The Examiner has rejected claims 1 through 15 inclusive as being obvious over the Brecker, et al., patent in view of the Hiyama et al., patent. Neither the Brecker, et al., patent nor the Hiyama et al., patent teaches component C as oxidized polyethylene or provide any reason to modify the teachings therein to utilize oxidized polyethylene. Neither the Brecker, et al., patent nor the Hiyama et al., patent mentions any of the claimed performance properties. Thus, all of the pending claims cannot not be obvious from the combined disclosures of the Hiyama et al., patent with the Brecker, et al., patent and the rejection should be removed.

The Examiner next rejects claims 1 through 15 inclusive as being obvious over the Anderson et al., patent in view of the Hiyama et al., patent. Neither the Anderson et al., patent or the Hiyama et al., patent teaches component C as oxidized polyethylene or provide any reason to modify the teachings therein to utilize oxidized polyethylene. Neither the Anderson et al., patent or the Hiyama et al., patent mentions any of the

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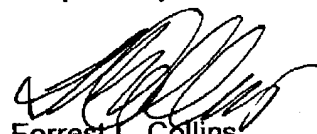
claimed performance properties. Thus, all of the pending claims cannot not be obvious from the combined disclosures of Hiyama et al., patent with the Anderson et al., patent and the rejection should be removed.

The Examiner next rejects claims 1 through 15 inclusive as being obvious over the Lamb patent in view of the Hiyama et al., patent. Neither the Lamb patent or the Hiyama et al., patent teaches component C as oxidized polyethylene or provides any reason to modify the teachings therein to utilize oxidized polyethylene and neither the Lamb patent or the Hiyama et al., patent mentions any of the performance properties. Thus, all of the pending claims cannot not be obvious from the combined teachings of the Hiyama et al., patent with the Lamb patent and the rejection should be removed.

The applicant also draws the Examiner's attention to the applicant's Declaration made under 35 C.F.R. 132 demonstrating the applicant's invention.

Should questions concerning this application arise the Examiner is urged to telephone the undersigned to advance prosecution of this application. The applicant believes the application is in condition for allowance and such is earnestly solicited.

Respectfully submitted,


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